IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

FRIDAY, THE 30TH NOVEMBER 2007 / 9TH AGRAHAYANA 1929

Crl.Rev.Pet.No. 4147 of 2007()

CRA.339/2004 of III ADDL.SESSIONS COURT, ERNAKULAM
CC.234/1998 of ADDL.CHIEF JUDICIAL MAGISTRATE (E & O), ERNAKULAM

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REVN. PETITIONER: APPELLANT/ACCUSED

KUNIMAL IBRAHIM, S/O. ABUBACKER,
KONNAMPOYIL HOUSE, VALIYAPARAMBA POST,
VIA. KODUVALLY, KOZHIKODE.

BY ADV. SRI.P.A.AUGUSTINE(AREEKATTEL)

RESPONDENTS: COMPLAINANT/STATE

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1. THE ASST. COMMISSIONER OF CUSTOMS AIR CUSTOMS, KARIPUR.

2. STATE OF KERALA, REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.C.M.NAZAR
SRI.C.A.MAJID, S.C.

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 30/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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Crl.R.P.No. 4147 of 2007

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Dated this the 30th day of November, 2007

ORDER

The revision petitioner who was the accused in C.C.No.234 of 1998 on the file of Additional Chief Judicial Magistrate Court (Economic Offences) Ernakulam for offences punishable under Sections 132 and 135 of the Customs Act, 1962 challenges the conviction entered and sentence passed concurrently against him for the aforementioned offence by the courts below.

2. The case of the prosecution is that on 6.6.96, the revision petition who arrived at Kozhikode Airport from Riyad was found in possession of 23 gold biscuits of foreign origin, each concealed ingenuously in electric iron, emergency light, mixie and batteries without declaring the same to the customs authorities. The gold biscuits were of 24 carat purity and having a total weight of 2681.8 gms and having a market value of Rs.13,89,200/-. The accused has thereby committed the above offence.

3. The learned Magistrate after trial as per judgment dated 29.03.07 found him guilty of the offence under Section 135(1)(i)

of the Customs Act and sentenced him to simple imprisonment for 14 months and to pay a fine of Rs.50,000/- and on default to pay the fine, to undergo simple imprisonment for six months. On appeal preferred by the revision petitioner as Crl.A.No.339/2004 before the Addl.Sessions Judge, Ernakulam, the III Additional Sessions Judge as per judgment dated 27.7.07 dismissed the appeal confirming the conviction entered and sentence passed by the trial court. Hence this revision.

4. Even though the learned counsel appearing for the revision petitioner assailed the conviction against the revision petitioner on various grounds, in as much as the conviction has been recorded by the courts below after a careful evaluation of oral and documentary evidence in the case, I do not find any ground for interfering with the said conviction which is accordingly confirmed.

5. What now survives for consideration is the question regarding the adequacy or otherwise of the sentence imposed on the revision petitioner . The revision petitioner has already suffered the substantive sentence of imprisonment of 14 months. What remains is the payment of fine amount of Rs.50,000/-

(Rupees fifty thousand only) and the default sentence of six months of imprisonment. The gold biscuits in question were seized from the revision petitioner and have been confiscated in departmental proceedings. The petitioner was a first offender. Considering the fact that he has already served out the sentence of imprisonment, I am inclined to reduce the fine amount to Rs.15,000/-(Rupees fifteen thousand only) and on default to pay the fine amount, he shall suffer simple imprisonment for one month. He is given 2 months time to pay the fine amount. He shall be released from prison forthwith unless his continued detention is found necessary in connection with any other case against him. . His release shall, however, be subject to the liability to pay the fine as aforesaid.

V. RAMKUMAR, JUDGE

sj

/True Copy/

P.A To Judge